

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN APPLICATION BY THE UNION LIGHT,)	
HEAT, AND POWER COMPANY FOR AUTHORITY)	CASE NO.
TO RECOVER CERTAIN PURCHASED POWER)	10216
DEMAND COSTS THROUGH THE FUEL ADJUSTMENT)	
CLAUSE)	

O R D E R

PROCEDURAL BACKGROUND

On April 7, 1988, Union Light, Heat, and Power ("ULH&P") filed an application seeking authority to recover through its fuel adjustment clause ("FAC") economic purchase power demand charges incurred by its wholesale supplier, Cincinnati Gas and Electric ("CG&E"), and passed on to ULH&P. On April 29, 1988, the Attorney General's Utility and Rate Intervention Division ("AG") moved to intervene in this case. On May 2, 1988, its Motion was granted. On June 8, 1988, the AG moved for dismissal of this case contending the relief sought by ULH&P was prohibited by Commission regulations. On June 21, 1988, ULH&P filed a memorandum contra urging that the AG's motion be denied.

DISCUSSION

This Commission¹ and the Federal Energy Regulatory Commission² ("FERC") allow electric utilities to track

¹ 807 KAR 5:056.

² 18 CFR §35.14.

fluctuations in fuel costs through FACs. A FAC adjusts a utility's rates to reflect the difference in its current fuel costs and those of an established base period. Both commissions use similar approaches to determine a FAC's adjustment factor except for one major difference. FERC's FAC regulation permits a utility to recover demand charges associated with economic purchases of power.³ This Commission does not. Instead, it requires that such charges be recovered through a utility's base rates.⁴

ULH&P finds itself caught between the Commissions' conflicting regulations on this issue. As a wholly-owned subsidiary of CG&E, ULH&P purchases its full electric energy requirements from CG&E on a firm contract basis. CG&E engages in economic power purchases in which it incurs demand charges. As FERC has exclusive jurisdiction over CG&E's wholesale rates, these demand charges are included in CG&E's total fuel cost and thus in the calculation of the monthly FAC rate charged to ULH&P. ULH&P has requested approval for recovering through its FAC that portion of CG&E's monthly FAC charge attributable to demand charges for economic power purchases.⁵

³ 18 CFR §35.14(a)(2).

⁴ 807 KAR 5:056, §1(3)(c)

⁵ Effective January 1, 1987, CG&E's wholesale electric tariff was amended to allow recovery of economic power purchase demand charges through its FAC. FERC Docket No. ER87-62-002. Since the amendment of CG&E's tariff, ULH&P's share of such charges has been \$11,764.

ULH&P advances two arguments in support of its request. First, it argues that the prohibition against inclusion of demand charges for economic power purchases applies only to utilities with generation facilities. As ULH&P has no generation facilities, the prohibition is not applicable in this instance.⁶ This argument fails upon a reading of the Commission regulation. As the AG has noted in its motion to dismiss, "nothing in the language of 807 KAR 5:056, Section 1(3)(c) . . . limits its application to only those utilities with generating facilities."⁷ To accept ULH&P's argument would require ignoring the clear and unambiguous language of the regulation which the Commission will not do.

In its other argument, ULH&P urges this Commission to view CG&E's economic power purchases as distinct and separate from ULH&P's energy purchases. "Union Light," it argues, "does not engage in economy purchases, its supplier does."⁸ The seller of the economy energy bills no demand charges to ULH&P. Accordingly, the total fuel cost incurred by ULH&P, including that portion attributable to demand charges incurred by CG&E for economic power purchases, is a fuel cost and can be included in ULH&P's FAC.

⁶ ULH&P Response to PSC Order of May 6, 1988, p. 2.

⁷ AG's Motion to Dismiss, June 8, 1988, p. 1.

⁸ ULH&P Memorandum Contra, June 21, 1988, p. 2.

This Commission agrees with this argument. We interpret 807 KAR 5:056, Section 1(3)(c) to exclude only demand charges which a utility incurs for its own economic power purchases. To extend this exclusion to demand charges incurred by a utility's suppliers would be inappropriate for two reasons. First, few utilities have the ability to track the economic power purchases of their suppliers. Wholesale electric power suppliers seldom provide such information to their customers. Their billing invoices normally do not indicate what portion of the invoice price is attributable to demand charges which they incurred for their own economic power purchases. Secondly, by extending the exclusion we would be imposing a Commission regulation on utilities and transactions outside our jurisdiction, a dubious result at best.

The Commission believes that the costs associated with CG&E's economic power transactions are reasonably incurred. To be recovered through a FERC-approved FAC, such costs must be incurred in a transaction meeting the FERC definition of "economic power." FERC defines economic power as power purchased at a total cost including demand charges which is less than the buyer's total avoided variable cost, i.e., the cost incurred had the purchase not been made.⁹ Simply stated, through such purchases CG&E's customers, of which ULH&P is one, receive power at a lower cost than had CG&E generated the power.

⁹ 18 CFR §35.14(a)(11)(i)

In making its decision, the Commission is mindful of the fears expressed by the AG that approval of ULH&P's application might result "in this case being used as precedent by other utilities desiring to run such demand costs through the fuel adjustment clause."¹⁰ We believe such fears to be exaggerated. This Commission's FAC regulation will continue to be limited to the recovery of fuel costs. The recovery for which ULH&P seeks authority pertains solely to its fuel costs as billed by its wholesale supplier.

FINDINGS AND ORDERS

The Commission, after reviewing the evidence of record and being advised, is of the opinion and finds that:

1. The fuel cost recovery for which ULH&P seeks approval is in conformance with Commission regulation 807 KAR 5:056 and should be approved.

2. The AG's motion to dismiss should be denied.

IT IS THEREFORE ORDERED that:

1. ULH&P be, and it hereby is, authorized to recover through its FAC its fuel cost as billed by its wholesale supplier, CG&E, including the cost of economic purchase power demand charges incurred by CG&E.

2. The AG's motion to dismiss this proceeding be and it hereby is denied.

¹⁰ AG Motion to Dismiss, p. 2.

Done at Frankfort, Kentucky, this 12th day of August, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Hemmings
Chairman

Robert M. Davis
Vice Chairman

Steve M. Williams
Commissioner

ATTEST:

Executive Director